

Vulcan Louisville Smelting
153401

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 5

IN THE MATTER OF:)	Docket No. 7-94-10
)	
FANSTEEL, INC.)	ADMINISTRATIVE ORDER
)	PURSUANT TO SECTION 106(a)
)	OF THE COMPREHENSIVE
Respondent:)	ENVIRONMENTAL RESPONSE,
)	COMPENSATION, AND
)	LIABILITY ACT OF 1980,
)	AS AMENDED, 42 U.S.C.
)	§9606(a)

I. JURISDICTION AND GENERAL PROVISIONS

This Order is issued pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §9606(a), and delegated to the Administrator of the United States Environmental Protection Agency ("U.S. EPA") by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Regional Administrators by U.S. EPA Delegation Nos. 14-14-A and 14-14-B, and to the Director, Superfund Division, Region 5, by Regional Delegation Nos. 14-14-A and 14-14-B.

This Order pertains to property located at One Tantalum Place, North Chicago, Illinois, which is a portion of the Vacant Lot Site and/or appears to be contributing to contamination at the Vacant Lot Site (the "Vacant Lot Site" or the "Site"). This Order requires the Respondent to conduct removal activities described herein to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances at or from the Site.

U.S. EPA has notified the State of Illinois of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. §9606(a).

II. PARTIES BOUND

This Order applies to and is binding upon Respondent and Respondent's receivers, trustees, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondent's responsibilities under this Order.

Respondent shall ensure that its contractors, subcontractors, and representatives comply with this Order. Respondent shall be responsible for any noncompliance.

III. FINDINGS OF FACT

Based on available information, including the Administrative Record in this matter, U.S. EPA hereby finds that:

1. The Vacant Lot Site, as initially defined, was a 6.4-acre parcel located in North Chicago, Lake County, Illinois. This parcel is bordered on the north by elevated tracks of Elgin, Joliet & Eastern Railroad, on the east by Fansteel, on the south by Martin Luther King Drive and on the west by Commonwealth Avenue. The Site is depicted in Attachment B.
2. The Site posed easy access through its unfenced west boundary and northeast corner of the Site, as well as through gaps in the existing fences. An access road made of gravel or badly weathered concrete pavement originated at the south end of the Site and proceeded north through approximately three-fourths of the Site length. The southern two-thirds of the Site had a weathered concrete/gravel layer, under approximately 6 inches of top soil. Several areas of the northwest one-third portion of the Site had deposits of slag, ash, and cinders.
3. The Site is transected by Pettibone Creek, an intermittent water body that lies in a relatively steep-sided ravine, and originates at the northwest boundary of the Site. The Creek flows to the south on Site, and then flows east to finally merge into Lake Michigan (approximately 1.5 miles from the Site). The Creek, at its origin, receives water through the North Chicago Stormwater discharge and a ditch. The Creek is also fed by rain water and outfalls from two nearby facilities (EMCO and Fansteel). As such, the Creek, within the Site premises, contains water only during rain, Stormwater, or industrial discharge events.
4. People reportedly used the Site as a throughway since it is located in an area of businesses and nearby residences. There was evidence (trash) that the Site was being used by nearby residents to visit the creek area. A local authority also stated that the Site was sometimes inhabited by homeless people.
5. U.S. EPA conducted an Engineering Evaluation/Cost Analysis ("EE/CA") for the 6.4 acre parcel at the Site. The EE/CA Report identified contamination at levels of concern, including: elevated concentrations of lead in soil (>1,400 milligrams per kilogram ("mg/kg")) at depths up to 2 feet across the entire area; a primary source area with soils contaminated with tetrachloroethene (PERC) to a 4-foot depth (at levels up to 170 mg/kg) and lead contamination to a 9-foot depth (1,700 mg/kg); an

area where soils were contaminated with polychlorinated biphenyls (PCBs) at levels greater than 50 mg/kg to a 9-foot depth; lead and copper above the "severe effects level" (at levels up to 1,550 mg/kg and 3,100 mg/kg, respectively) and benzo(a)pyrene contamination (at levels up to 13 mg/kg) in sediments throughout the entire creekbed, to depths ranging from 2 to 6 feet;

6. On May 6, 1998, U.S. EPA issued an Action Memorandum selecting the following response activities: securing the Site and excavating and disposing of contaminated soils in excess of removal cleanup standards. The Action Memorandum was revised on September 15, 1998, to include excavation and disposal of contaminated sediments in Pettibone Creek. Removal action objectives were developed for those areas of the Site which were determined to exceed a risk of 1×10^{-5} , a Hazard Index of 1, or for those areas which have a high potential to release contaminants to the environment.

7. U.S. EPA completed these response activities in May, 1999. U.S. EPA removed and disposed of approximately 45,000 tons of contaminated soil and sediment.

8. The EE/CA also identified several different and distinctive groundwater-contaminated areas on the Site. Groundwater in the northern one-third area of the Site was contaminated with manganese, 1,2-DCE, and TCE. TCE concentrations are above Removal Action Levels established in the EE/CA Report, and 1,1-dichlorethene concentrations above Maximum Contaminant Limits (MCLs) were detected in the north and northeastern perimeter Geoprobe water samples.

9. Because TCE was not detected in soils on the northern portion of the 6.4 acre parcel, the EE/CA Report concluded that the TCE contamination originated from an adjacent parcel. Because groundwater flows in a westerly direction, the EE/CA Report concluded that the TCE contamination originated on Fansteel's property. RCRA closure records for Fansteel's property indicate waste management and disposal occurred in this vicinity and that in a tank area soil contamination extended to a depth of up to 20 feet.

10. The EE/CA report and the Action Memorandum determined that groundwater response activities at the Site should be deferred until the TCE source area was investigated further.

11. The EE/CA Report concluded that releases from the TCE source area had become commingled and connected with other releases at the Site. As a result, the Action Memorandum concluded that further information concerning the nature and extent of groundwater contamination and source(s) to the east of the 6.4 acre parcel would need to be developed before appropriate Site-wide alternatives for groundwater remediation could be evaluated.

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11. The EE/CA Report concluded that releases from the TCE source area had become commingled and connected with other releases at the Site. As a result, the Action Memorandum concluded that further information concerning the nature and extent of groundwater contamination and source(s) to the east of the 6.4 acre parcel would need to be developed before appropriate Site-wide alternatives for groundwater remediation could be evaluated.

12. Under CERCLA, the definition of "facility" expands to encompass the extent of the releases of concern.

13. On June 17, 1997, U.S. EPA issued a notice letter to Fansteel, Inc. requesting that it conduct an EE/CA to further investigate the nature and extent of sediment and groundwater contamination on its property adjacent to the area addressed in the first EE/CA at the Site.

IV. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, and the Administrative Record supporting these removal actions, U.S. EPA determines that:

1. The Vacant Lot Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. §9601(9).
2. TCE and manganese are "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. §9601(14).
3. Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. §9601(21).
4. Respondent Fansteel Corporation is the present "owner" and "operator" of a portion of the Vacant Lot Site, as defined by Section 101(20) of CERCLA, 42 U.S.C. §9601(20). Respondent is therefore a liable person under Section 107(a) of CERCLA, 42 U.S.C. §9607(a).
5. The conditions described in the Findings of Fact above constitute an actual or threatened "release" into the "environment" as defined by Sections 101(8) and (22) of CERCLA, 42 U.S.C. §§9601(8) and (22).
6. The conditions present at the Site constitute a threat to public health, welfare, or the environment based upon the factors set forth in Section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan, as amended ("NCP"), 40 CFR Part 300. These factors include, but are not limited to, the following:
 - a. Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, pollutants or contaminants; this factor is present at the Site due to the existence of historic disposal areas which provide likely sources for the groundwater contamination detected on the eastern end of the Site area investigated in the EE/CA report.
 - b. Actual or potential contamination of drinking water supplies or sensitive ecosystems; this factor is present at

the Site due to the presence of hazardous substances, including manganese and TCE, in groundwater. Although there are no known groundwater receptors in the Site vicinity, the groundwater may cause actual or potential contamination via groundwater migration and surface water runoff into the Creek which feeds into Lake Michigan (~1.5 miles from the Site).

c. High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate; this factor is present at the Site due to the existence of high levels of VOCs in the Site soils from the surface extending below ground to approximately 20 feet.

7. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. §9606(a).

8. The removal actions required by this Order are necessary to protect the public health, welfare, or the environment, and are not inconsistent with the NCP and CERCLA.

V. ORDER

Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, U.S. EPA hereby orders that Respondent perform the following actions:

1. Notice of Intent to Comply

Respondent shall notify U.S. EPA in writing within 3 business days after the effective date of this Order of Respondent's irrevocable intent to comply with this Order. Failure of Respondent to provide such notification within this time period shall be a violation of this Order.

2. Designation of Contractor, Project Coordinator, and On-Scene Coordinator

Respondent shall perform the removal actions itself or retain a contractor or contractors to implement the removal actions. Respondent shall notify U.S. EPA of Respondent's qualifications or the name and qualifications of such contractor(s), whichever is applicable, within 5 business days of the effective date of this Order. Respondent shall also notify U.S. EPA of the name and qualifications of any other contractors or subcontractors retained to perform work under this Order at least 5 business days prior to commencement of such work. U.S. EPA retains the right to disapprove of the Respondent or any of the contractors and/or subcontractors retained by the Respondent. If U.S. EPA disapproves a selected contractor, Respondent shall retain a

different contractor within 2 business days following U.S. EPA's disapproval and shall notify U.S. EPA of that contractor's name and qualifications within 3 business days of U.S. EPA's disapproval.

Within 5 business days after the effective date of this Order, the Respondent shall designate a Project Coordinator who shall be responsible for administration of all the Respondent's actions required by the Order and submit the designated coordinator's name, address, telephone number, and qualifications to U.S. EPA. To the greatest extent possible, the Project Coordinator shall be present on-site or readily available during site work. U.S. EPA retains the right to disapprove of any Project Coordinator named by the Respondent. If U.S. EPA disapproves a selected Project Coordinator, Respondent shall retain a different Project Coordinator within 3 business days following U.S. EPA's disapproval and shall notify U.S. EPA of that person's name and qualifications within 4 business days of U.S. EPA's disapproval. Receipt by Respondent's Project Coordinator of any notice or communication from U.S. EPA relating to this Order shall constitute receipt by Respondent.

The U.S. EPA has designated John O'Grady of the Remedial Response Branch, Region 5, as its On-Scene Coordinator ("OSC"). Respondent shall direct all submissions required by this Order to the OSC at 77 West Jackson Boulevard, (SR-6J), Chicago, Illinois 60604-3590, by certified or express mail. Respondent shall also send a copy of all submissions to Thomas Krueger, Assistant Regional Counsel, 77 West Jackson Boulevard, C-14J, Chicago, Illinois, 60604-3590. Respondent is encouraged to make its submissions to U.S. EPA on recycled paper (which includes significant post-consumer waste paper content where possible) and using two-sided copies.

3. Work to Be Performed

Respondent shall, at a minimum, perform an investigation and develop and submit to U.S. EPA an EE/CA Report in accordance with the attached Workplan. This Workplan is incorporated into and made an enforceable part of this Order.

The EE/CA Report shall be consistent with, at a minimum, U.S. EPA guidance entitled, "Guidance on Conducting Non-Time Critical Removal Actions Under CERCLA", EPA/540-R-93-057, Publication 9360.32, PB 93-963402, dated August 1993.

3.1 EE/CA Report

Within 180 calendar days after the effective date of this Order, the Respondent shall submit to U.S. EPA for approval a draft EE/CA Report that is consistent with this Order and the Workplan.

U.S. EPA may approve, disapprove, require revisions to, or modify the draft EE/CA Report. If U.S. EPA requires revisions,

Respondent shall submit a revised EE/CA Report incorporating all of U.S. EPA's required revisions within 20 business days of receipt of U.S. EPA's notification of the required revisions.

In the event of U.S. EPA disapproval of the revised EE/CA Report, Respondent may be deemed in violation of this Order. In such event, U.S. EPA retains the right to terminate this Order, conduct a complete EE/CA, and obtain reimbursement for costs incurred in conducting the EE/CA from the Respondent.

The revised report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this EE/CA Report, the information submitted is true, accurate, and complete.

Respondent shall not commence or undertake any removal actions at the Site without prior U.S. EPA approval. Respondent shall notify U.S. EPA at least 48 hours prior to performing any on-site work pursuant to the Workplan.

3.2 Quality Assurance and Sampling

All sampling and analyses performed pursuant to this Order shall conform to U.S. EPA direction, approval, and guidance regarding sampling, quality assurance/quality control ("QA/QC"), data validation, and chain of custody procedures. Respondent shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with U.S. EPA guidance. Upon request by U.S. EPA, Respondent shall have such a laboratory analyze samples submitted by U.S. EPA for quality assurance monitoring. Respondent shall provide to U.S. EPA the quality assurance/quality control procedures followed by all sampling teams and laboratories performing data collection and/or analysis. Respondent shall also ensure provision of analytical tracking information consistent with OSWER Directive No. 9240.0-2B, "Extending the Tracking of Analytical Services to PRP-Lead Superfund Sites."

Upon request by U.S. EPA, Respondent shall allow U.S. EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondent or its contractors or agents while performing work under this Order. Respondent shall notify U.S. EPA not less than 3 business days in advance of any sample collection activity. U.S. EPA shall have the right to take any additional samples that it deems necessary.

3.3 Reporting

Respondent shall submit a monthly written progress report to U.S. EPA concerning activities undertaken pursuant to this Order,

beginning 30 calendar days after the effective date of this Order, until termination of this Order, unless otherwise directed by the OSC. These reports shall describe all significant developments during the preceding period, including the work performed and any problems encountered, analytical data received during the reporting period, and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

Respondent, and any successor in title shall, at least 30 days prior to the conveyance of any interest in real property at the Site, give written notice of this Order to the transferee and written notice of the proposed conveyance to U.S. EPA and the State. The notice to U.S. EPA and the State shall include the name and address of the transferee. The party conveying such an interest shall require that the transferee will provide access as described in Section V.4 (Access to Property and Information).

3.4 Additional Work

In the event that the U.S. EPA or the Respondent determine that additional work, including EE/CA support sampling and/or an engineering evaluation, is necessary to accomplish the objectives of the EE/CA Report, notification of such additional work shall be provided to the other party in writing. Any additional work which Respondent determines to be necessary shall be subject to U.S. EPA's written approval prior to commencement of the additional work. Respondent shall complete, in accordance with standards, specifications, and schedules U.S. EPA has approved, any additional work Respondent has proposed, and which U.S. EPA has approved in writing or that U.S. EPA has determined to be necessary, and has provided written notice of pursuant to this paragraph.

4. Access to Property and Information

Respondent shall provide or obtain access as necessary to the Site and all appropriate off-site areas, and shall provide access to all records and documentation related to the conditions at the Site and the activities conducted pursuant to this Order. Such access shall be provided to U.S. EPA employees, contractors, agents, consultants, designees, representatives, and State of Illinois representatives. These individuals shall be permitted to move freely at the Site and appropriate off-site areas in order to conduct activities which U.S. EPA determines to be necessary. Respondent shall submit to U.S. EPA, upon request, the results of all sampling or tests and all other data generated by Respondent or its contractor(s), or on the Respondent's behalf during implementation of this Order.

Where work under this Order is to be performed in areas owned by or in possession of someone other than Respondent, Respondent shall obtain all necessary access agreements within 14 calendar

days after the effective date of this Order, or as otherwise specified in writing by the OSC. Respondent shall immediately notify U.S. EPA if, after using its best efforts, it is unable to obtain such agreements. Respondent shall describe in writing its efforts to obtain access. U.S. EPA may then assist Respondent in gaining access, to the extent necessary to effectuate the response activities described herein, using such means as U.S. EPA deems appropriate.

5. Record Retention, Documentation, Availability of Information

Respondent shall preserve all documents and information, in its possession or the possession of its contractors, subcontractors or representatives, relating to work performed under this Order, or relating to the hazardous substances found on or released from the Site, for six years following completion of the removal actions required by this Order. At the end of this six year period and at least 60 days before any document or information is destroyed, Respondent shall notify U.S. EPA that such documents and information are available to U.S. EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to U.S. EPA. In addition, Respondent shall provide documents and information retained under this Section at any time before expiration of the six year period at the written request of U.S. EPA. Any information that Respondent is required to provide or maintain pursuant to this Order is not subject to the Paperwork Reduction Act of 1995, 44 U.S.C. §3501 et seq.

6. Off-Site Shipments

All hazardous substances, pollutants or contaminants removed off-site pursuant to this Order for treatment, storage or disposal shall be treated, stored, or disposed of at a facility in compliance, as determined by U.S. EPA, with the U.S. EPA Off-Site Rule, 40 CFR §300.440, 58 Fed. Reg. 49215 (Sept. 22, 1993).

7. Compliance With Other Laws

All actions required pursuant to this Order shall be performed in accordance with all applicable local, state, and federal laws and regulations except as provided in Section 121(e) of CERCLA and 40 CFR §300.415(j). In accordance with 40 CFR §300.415(j), all on-site actions required pursuant to this Order shall, to the extent practicable, as determined by U.S. EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements under federal environmental or state environmental or facility siting laws.

8. Emergency Response and Notification of Releases

If any incident, or change in Site conditions, during the activities conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances from the

Site or an endangerment to the public health, welfare, or the environment, the Respondent shall immediately take all appropriate action to prevent, abate or minimize such release, or endangerment caused or threatened by the release. Respondent shall also immediately notify the OSC or, in the event of his/her unavailability, shall notify the Regional Duty Officer, Emergency Response Branch, Region 5 at (312) 353-2318, of the incident or Site conditions.

Respondent shall submit a written report to U.S. EPA within 7 business days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. Respondent shall also comply with any other notification requirements, including those in Section 103 of CERCLA, 42 U.S.C. §9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. §11004.

VI. AUTHORITY OF THE U.S. EPA ON-SCENE COORDINATOR

The OSC shall be responsible for overseeing the implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by U.S. EPA or Respondent at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

U.S. EPA and Respondent shall have the right to change their designated OSC or Project Coordinator. U.S. EPA shall notify the Respondent, and Respondent shall notify U.S. EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. Notification may initially be made orally, but shall be followed promptly by written notice.

VII. PENALTIES FOR NONCOMPLIANCE

Violation of any provision of this Order may subject Respondent to civil penalties of up to \$27,500 per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. §9606(b)(1). Respondent may also be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. §9607(c)(3). Should Respondent violate this Order or any portion hereof, U.S. EPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. §9604, and/or may seek judicial enforcement of this Order pursuant to Section 106 of CERCLA, 42 U.S.C. §9606.

VIII. REIMBURSEMENT OF COSTS

Respondent shall reimburse U.S. EPA, upon written demand, for all response costs incurred by the United States in overseeing Respondent's implementation of the requirements of this Order. U.S. EPA may submit to Respondent on a periodic basis a bill for all response costs incurred by the United States with respect to this Order. U.S. EPA's Itemized Cost Summary, or such other summary as certified by U.S. EPA, shall serve as the basis for payment.

Respondent shall, within 30 days of receipt of the bill, remit a cashier's or certified check for the amount of those costs made payable to the "Hazardous Substance Superfund," to the following address:

U.S. Environmental Protection Agency
Program Accounting & Analysis Section
P.O. Box 70753
Chicago, Illinois 60673

Respondent shall simultaneously transmit a copy of the check to the Director, Superfund Division, U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590. Payments shall be designated as "Response Costs - Vacant Lot Site" and shall reference the payer's name and address, the U.S. EPA site identification number (A527), and the docket number of this Order.

Interest at a rate established by the Department of the Treasury pursuant to 31 U.S.C. §3717 and 4 CFR §102.13 shall begin to accrue on the unpaid balance from the day after the expiration of the 30 day period notwithstanding any dispute or an objection to any portion of the costs.

IX. RESERVATION OF RIGHTS

Nothing herein shall limit the power and authority of U.S. EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Order. U.S. EPA also reserves the right to take any other legal or equitable action as it deems appropriate and necessary, or to require the Respondent(s) in the future to perform additional activities pursuant to CERCLA or any other applicable law.

X. OTHER CLAIMS

By issuance of this Order, the United States and U.S. EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent. The United States or U.S. EPA shall not be a party or be held out as a party to any contract entered into by the Respondent or its directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this Order.

This Order does not constitute a pre-authorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. §9611(a)(2).

Nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against the Respondent or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§9606(a), 9607(a).

XI. MODIFICATIONS

Modifications to any plan or schedule may be made in writing by the OSC or at the OSC's oral direction. If the OSC makes an oral modification, it will be memorialized in writing within 7 business days; however, the effective date of the modification shall be the date of the OSC's oral direction. The rest of the Order, or any other portion of the Order, may only be modified in writing by signature of the Director, Superfund Division, Region 5.

If Respondent seek permission to deviate from any approved plan or schedule, Respondent's Project Coordinator shall submit a written request to U.S. EPA for approval outlining the proposed modification and its basis.

No informal advice, guidance, suggestion, or comment by U.S. EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondent shall relieve Respondent of its obligations to obtain such formal approval as may be required by this Order, and to comply with all requirements of this Order unless it is formally modified.

XII. NOTICE OF COMPLETION

After submission and approval of the EE/CA Report, Respondent may request that U.S. EPA provide a Notice of Completion of the work

required by this Order. If U.S. EPA determines, after U.S. EPA's review of the Final EE/CA Report, that all work has been fully performed in accordance with this Order, except for certain continuing obligations required by this Order (e.g., record retention), U.S. EPA will provide written notice to the Respondent. If U.S. EPA determines that any removal activities have not been completed in accordance with this Order, U.S. EPA will notify the Respondent, provide a list of the deficiencies, and require that Respondent correct such deficiencies. The Respondent shall implement these requirements and shall submit a modified Final EE/CA Report in accordance with the U.S. EPA notice. Failure to correct the identified deficiencies shall be a violation of this Order.

XIII. ACCESS TO ADMINISTRATIVE RECORD

The Administrative Record supporting these removal actions is available for review during normal business hours in the U.S. EPA Record Center, Region 5, 77 W. Jackson Blvd., Seventh Floor, Chicago, Illinois. Respondent may contact Thomas Krueger, Assistant Regional Counsel, at (312) 886-0562 to arrange to review the Administrative Record. An index of the Administrative Record is attached to this Order.

XIV. OPPORTUNITY TO CONFER

Within 3 business days after issuance of this Order, Respondent may request a conference with U.S. EPA. Any such conference shall be held within 5 business days from the date of the request, unless extended by agreement of the parties. At any conference held pursuant to the request, Respondent may appear in person or be represented by an attorney or other representative.

If a conference is held, Respondent may present any information, arguments or comments regarding this Order. Regardless of whether a conference is held, Respondent may submit any information, arguments or comments (including justifications for any assertions that the Order should be withdrawn against a Respondent), in writing to U.S. EPA within 2 business days following the conference, or within 7 business days of issuance of the Order if no conference is requested. This conference is not an evidentiary hearing, does not constitute a proceeding to challenge this Order, and does not give Respondent a right to seek review of this Order. Requests for a conference shall be directed to Thomas Krueger, Assistant Regional Counsel, at (312) 886-0562. Written submittals shall be directed as specified in Section V.2 of this Order.

XV. SEVERABILITY

If a court issues an order that invalidates any provision of this Order or finds that Respondent has sufficient cause not to comply with one or more provisions of this Order, Respondent shall remain bound to comply with all provisions of this Order not invalidated by the court's order.

XVI. EFFECTIVE DATE

This Order shall be effective 10 business days following issuance unless a conference is requested as provided herein. If a conference is requested, this Order shall be effective 5 business days after the day of the conference.

IT IS SO ORDERED

BY: 

for William E. Muno, Director
Superfund Division
United States
Environmental Protection Agency
Region 5

DATE: 9/21/00